

FIRST REGULAR SESSION

HOUSE BILL NO. 804

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRISAMORE (Sponsor), ERVIN, KRAUS, YATES, NIEVES, CUNNINGHAM (86), SCHAAF, STREAM, PRATT, DUSENBERG, BRUNS, THOMSON, ST. ONGE, MUSCHANY, SMITH (150), PEARCE, WILSON (119), COOPER (155), SANDER, NOLTE, SCHAD, POLLOCK, FAITH, DAY, MAY, RICHARD, WILSON (130), FARES, SILVEY, JONES (117), BIVINS, GRILL, HOLSMAN, BAKER (123), KINGERY, DEEKEN, WASSON, McGHEE, WETER, THRELKELD, DENISON, CUNNINGHAM (145), SCHOELLER, ONDER AND SCHARNHORST (Co-sponsors).

Read 1st time February 7, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1962L.011

AN ACT

To repeal sections 135.400 and 135.403, RSMo, and to enact in lieu thereof two new sections relating to the small business investment tax credit.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 135.400 and 135.403, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 135.400 and 135.403, to read as follows:

135.400. As used in sections 135.400 to 135.430, the following terms mean:

- 2 (1) "Certificate", a tax credit certificate issued by the department of economic
3 development in accordance with sections 135.400 to 135.430;
- 4 (2) ["Community bank", either a bank community development corporation or
5 development bank, which are financial organizations which receive investments from
6 commercial financial institutions regulated by the federal reserve, the office of the comptroller
7 of the currency, the office of thrift supervision, or the Missouri division of finance. Community
8 banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity
9 investments in businesses or in real estate provided that such transactions have associated public
10 benefits;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (3) "Community development corporation", a not-for-profit corporation whose board of
12 directors is composed of businesses, civic and community leaders, and whose primary purpose
13 is to encourage and promote the industrial, economic, entrepreneurial, commercial, and civic
14 development or redevelopment of a community or area, including the provision of housing and
15 community development projects that benefit low-income individuals and communities;

16 (4) "Department", the Missouri department of economic development;

17 [(5)] (3) "Director", the director of the department of economic development, or a person
18 acting under the supervision of the director;

19 [(6)] (4) "Investment", a transaction in which a Missouri small business [or a community
20 bank] receives a monetary benefit from an investor pursuant to the provisions of sections
21 135.403 to 135.414;

22 [(7)] (5) "Investor", an individual, partnership, financial institution, trust or corporation
23 meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships
24 and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

25 (6) "**Missouri innovation center**", an **innovation center created under section**
26 **348.271, RSMo**;

27 [(8)] (7) "Missouri small business", an independently owned and operated business as
28 defined in Title 15 U.S.C. Section 632(a) and as described by Title 13 CFR Part 121, which is
29 headquartered in Missouri and which employs at least eighty percent of its employees in
30 Missouri, except that no such small business shall employ more than one hundred employees.
31 Such businesses must be involved in interstate or intrastate commerce for the purpose of
32 manufacturing, processing or assembling products, conducting research and development, or
33 providing services in interstate commerce, but excluding retail, real estate, insurance or
34 professional services[. For the purpose of qualifying for the tax credit pursuant to sections
35 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations
36 organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and
37 marketing fuels derived from agriculture commodities, without regard for whether a cooperative
38 marketing association has more than one hundred employees. Cooperative marketing
39 associations organized pursuant to chapter 274, RSMo, shall not be required to comply with the
40 requirements of section 135.414];

41 [(9)] (8) "Primary employment", work which pays at least the [minimum] **county**
42 **average** wage and which is not seasonal or part-time;

43 [(10)] (9) "Principal owners", one or more persons who own an aggregate of fifty percent
44 or more of the Missouri small business and who are involved in the operation of the business as
45 a full-time professional activity;

46 [(11)] **(10)** "Project", any commercial or industrial business or other economic
47 development activity undertaken in a target area, designed to reduce conditions of blight,
48 unemployment or widespread reliance on public assistance which creates permanent primary
49 employment opportunities;

50 **(11) "Rural area", a county with a population of less than seventy-five thousand**
51 **inhabitants or that does not contain an individual city with a population greater than fifty**
52 **thousand inhabitants according to the most recent federal consensus;**

53 **(12) "Small business development center", a center as referenced in section**
54 **620.1003, RSMo;**

55 [(12)] **(13)** "State tax liability", any liability incurred by a taxpayer pursuant to the
56 provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916,
57 RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax
58 as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

59 [(13) "Target area", a group of blocks or a self-defined neighborhood where the rate of
60 poverty in the area is greater than twice the national poverty rate and as defined by the
61 department of social services in conjunction with the department of economic development.
62 Areas of the state satisfying the criteria of this subdivision may be designated as a "target area"
63 following appropriate findings made and certified by the departments of economic development
64 and social services. In making such findings, the departments of economic development and
65 social services may use any commonly recognized records and statistical indices published or
66 made available by any agency or instrumentality of the federal or state government. No area of
67 the state shall be a target area until so certified by the department of social services and the
68 revitalization plan submitted pursuant to section 208.335, RSMo, has received approval.] **(14)**
69 **"Small business tax credit review committee", a committee consisting of two**
70 **representatives from the department of economic development, two representatives from**
71 **the Missouri small business development centers, and one representative from a Missouri**
72 **innovation center. This committee shall review all applications for the Missouri small**
73 **business investment tax credit and make recommendations to the department of economic**
74 **development on the authorization of such tax credits.**

135.403. 1. Any investor who makes a qualified investment **up to one hundred**
2 **thousand dollars** in a Missouri small business [shall be entitled to receive] **may be issued** a tax
3 credit equal to [forty] **thirty** percent of the amount of the investment [or, in the case of a
4 qualified investment in a Missouri small business in a distressed community as defined by
5 section 135.530, a credit equal to sixty percent of the amount of the investment, and any investor
6 who makes a qualified investment in a community bank or a community development
7 corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the

8 investment if the investment is made in a community bank or community development
9 corporation for direct investment. The total amount of tax credits available for qualified
10 investments in Missouri small businesses shall not exceed thirteen million dollars and at least
11 four million dollars of the amount authorized by this section and certified by the department of
12 economic development shall be for investment in Missouri small businesses in distressed
13 communities. Authorization for all or any part of this four-million-dollar amount shall in no way
14 restrict the eligibility of Missouri small businesses in distressed communities, as defined in
15 section 135.530, for the remaining amounts authorized within this section. No more than twenty
16 percent of the tax credits available each year for investments in community banks or community
17 development corporations for direct investment shall be certified for any one project, as defined
18 in section 135.400]. **If the investment is in small businesses located in a distressed**
19 **community as defined in section 135.530 or in a rural area, the investor may be issued tax**
20 **credits equal to forty percent of the amount of the investment. Effective August 28, 2007,**
21 **ten million dollars of tax credits each fiscal year shall be available for qualified investments**
22 **in Missouri small businesses.** The tax credit shall be evidenced by a tax credit certificate in
23 accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the
24 state tax liability of the owner of the certificate that becomes due in the tax year in which the
25 qualified investment is made, or in any of the ten tax years thereafter. [When the qualified small
26 business is in a distressed community, as defined in section 135.530, the tax credit may also be
27 used to satisfy the state tax liability of the owner of the certificate that was due during each of
28 the previous three years in addition to the year in which the investment is made and any of the
29 ten years thereafter.] No investor may receive a tax credit pursuant to sections 135.400 to
30 135.430 unless that person presents a tax credit certificate to the department of revenue for
31 payment of such state tax liability. The department of revenue shall grant tax credits in the same
32 order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of
33 sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections
34 may be transferred, sold or assigned by notarized endorsement thereof which names the
35 transferee.

36 2. [Five hundred thousand dollars in tax credits shall be available annually from the total
37 amount of tax credits authorized by section 32.110, RSMo, and subdivision (4) of subsection 2
38 of section 32.115, RSMo, as a result of investments in community banks or community
39 development corporations. Aggregate investments eligible for tax credits in any one Missouri
40 small business shall not be more than one million dollars. Aggregate investments eligible for
41 tax credits in any one Missouri small business shall not be less than five thousand dollars as of
42 the date of issuance of the first tax credit certificate for investment in that business.] **All**
43 **applications for the Missouri small business investment tax credit shall be submitted to the**

44 **department of economic development. The small business tax credit review committee**
45 **shall review and qualify all applications for the small business investment tax credit. The**
46 **department of economic development shall not issue any certificates without the approval**
47 **of the committee.**

48 3. [This section and section 620.1039, RSMo, shall become effective January 1, 2001.]
49 **If the investor is an individual, partnership, trust, or corporation meeting the eligibility**
50 **requirements of sections 135.403 to 135.414, a tax credit shall be issued if approved. In the**
51 **case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall**
52 **be treated as the investors. If the investor is a financial institution that has made a loan not**
53 **to exceed one million dollars to the qualified Missouri small business, the tax credit shall**
54 **be held as a guarantee on the loan and shall only be issued and redeemed by the financial**
55 **institution if the small business defaults on the loan within the first five years of the loan.**

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